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DEPARTMENT OF THE NAVY

Office of the Secretary  
Washington, D.C. 20350

CH-1 of 23 MAR 1988

SECNAVINST 3300.1A

JAG-10

2 May 1980

SECNAV INSTRUCTION 3300.1A

From: Secretary of the Navy

To: All Ships and Stations

Subj: Law of Armed Conflict (Law of War) Program to insure compliance by the naval establishment

- R) Ref: (a) SECNAVINST 5711.8A (NOTAL)  
R) (b) SECNAVINST 3461.3 (NOTAL)  
(c) NWP 9, Commander's Handbook on the Law of Naval Warfare  
(d) FM 27-10, The Law of Land Warfare  
(e) Geneva Conventions of 1949 for the Protection of War Victims  
(f) Hague Convention No. IV of 1907 Respecting the Law and Customs of War on Land  
(g) OPNAVINST 3100.6B (NOTAL)  
(h) MCO 5740.2C (NOTAL)  
(i) MCO 5830.4A (NOTAL)  
(j) Uniform Code of Military Justice

End: (1) DOD Directive 5100.77 of 10 July 1979  
(2) Examples of violations of the law of armed conflict

1. Purpose. To promulgate regulations and guidance to insure compliance by all personnel of the naval establishment with the international law of armed conflict, thereby implementing enclosure (1) within the Department of the Navy (DON). This is a complete revision.

2. Cancellation. SECNAV Inst 3300.1.

3. Background

a. Enclosure (1) directs the Armed Forces of the United States to comply with the law of armed conflict when engaged in hostilities, provides policy and guidance, and assigns responsibilities for implementing the DOD Law of War Program.

b. The law of armed conflict (traditionally known as the law of war) encompasses all international law regulating the conduct of nations and individuals engaged in armed conflict, which is binding on the United States or its citizens, either in international treaties and agreements to which the United States is a party, or as customary international law.

c. Excluded from the scope of enclosure (1) and this instruction is that part of the law of armed conflict relating to the acquisition and procurement of weapons for the naval service which is the subject of reference (a).

d. That part of the law of armed conflict relating to the handling of prisoners of war and other detainees, although excluded from the scope of enclosure (1), is governed by reference (b) and this instruction.

4. Policy

a. The DON will comply with the law of armed conflict in the conduct of military operations and related activities in armed conflicts.

b. To insure full continuing compliance with the law of armed conflict, (1) all persons in the DON, commensurate with their duties and responsibilities, should receive, through appropriate publications, instructions or training programs, adequate training and education in the law of armed conflict; and (2) suspected violations of the law of armed conflict by or against members of, or persons accompanying or serving with, the Armed Forces of the United States or its allies should be promptly reported and thoroughly investigated, and disciplinary or administrative action should be taken as considered appropriate.

c. All plans, policies, directives, publications, and training programs of the naval establishment should be in consonance with the law of armed conflict.

d. Further information on the applicable law and policy is contained in references (c) and (d).

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## **5. Responsibilities**

a. The Chief of Naval Operations (CNO) and the Commandant of the Marine Corps (CMC) are responsible for:

(1) implementing programs providing accession and specialized training in the law of armed conflict to all persons in the DON as required by their duties and responsibilities;

(2) identifying billets requiring special knowledge of aspects of the law of armed conflict and assigning appropriately trained personnel to those billets;

(3) establishing policies, procedures, and directives to insure the activities of the Navy and Marine Corps conform to the law of armed conflict; and

(4) implementing internal policies and procedures for the prompt reporting, investigation, and disposition of alleged violations of the law of armed conflict committed by or against members of the naval establishment.

b. The Judge Advocate General (JAG), as the DON sponsor for the Law of Armed Conflict Program, is responsible for:

(1) maintaining a central depository for reports and investigations of violations of the law of armed conflict alleged to have been committed by or against Navy or Marine Corps personnel or civilians serving with or accompanying Navy or Marine Corps forces;

(2) conducting periodic reviews of the Law of Armed Conflict Programs within the naval establishment, particularly in light of any violations reported;

(3) formulating broad objectives for training programs, and identifying necessary resource materials for curricula development;

(4) insuring the training in the law of armed conflict of Navy judge advocates assigned to billets

requiring detailed knowledge of the law of armed conflict; and

(5) reviewing for the CNO, and upon request for the CMC, plans, policies, directives, publications, training materials, and rules of engagement for conformity with United States domestic and international law, including the law of armed conflict. In urgent situations and upon request, maritime rules of engagement shall also be reviewed in support of the Secretary of Defense or the Chairman, Joint Chiefs of Staff.

## **6. Training**

a. The training program is derived from references (e) and (f), other international treaties and agreements to which the United States is a party, and customary international law.

b. Training will emphasize:

(1) the rights and obligations of Navy and Marine Corps personnel regarding combatants, non-combatants and civilians, other personnel, and property;

(2) the rights and obligations of personnel who are captured, detained, retained, sick, wounded or shipwrecked;

(3) probable results of acts of violence against, and inhumane treatment of, personnel;

(4) unlawful orders;

(5) rules governing the conduct of hostilities: including rules of engagement; and

(6) procedures for reporting alleged violations of the law of armed conflict.

c. The following individual training objectives are established:

(1) All members of the naval service shall attain during accession training sufficient understanding of the law of armed conflict to minimize the intentional commission of serious offenses in combat.

(2) The extent of additional knowledge required of various individuals will depend upon their assigned duties and responsibilities. In particular, it is expected that all personnel responsible for planning for, directing or participating in armed conflict, will receive sufficient training to comply with the law of armed conflict in all situations reasonably contemplated by their assigned duties.

(3) Judge Advocates responsible for advising operational commanders will have sufficient understanding of the law of armed conflict to advise and assist those commanders independently and expeditiously.

d. Unit and combined unit training programs will contain realistic problems involving the law of armed conflict that are incorporated in field and fleet exercises as appropriate.

#### **7. Report and Disposition of Violations**

a. Violations of the law of armed conflict suspected of having been committed by or against members of, or persons accompanying or serving with, the Armed Forces of the United States, or their property, will be reported, as directed in paragraph 8 below, immediately upon receipt of notification of such allegations, and will be followed, as appropriate, by amplifying reports of investigations and of ultimate disposition.

b. Violations of the law of armed conflict suspected to have been committed by or against allied military or civilian personnel or against allied military or civilian property will be reported, as directed in paragraph 8 below, immediately upon notification of such allegations, for ultimate transmission by competent authority to appropriate agencies of the allied government concerned.

c. Some examples of violations to be reported are listed in enclosure (2).

#### **8. Action**

a. The CNO, CMC, and the JAG shall carry out the responsibilities assigned in paragraph 5 above.

b. Copies of all implementing instructions shall be forwarded to the Judge Advocate General (Code 10).

c. Each person in the DON who has knowledge of or receives a report of an apparent violation of the law of armed conflict shall, as soon thereafter as practicable:

(1) make the incident known to his immediate commander or commanding officer, or

(2) if such person has an honest and reasonable belief that his immediate commander or commanding officer is or may be involved in the violation, make the incident known to an officer, normally in his chain of command, senior to the commander or commanding officer.

d. Commanders and commanding officers receiving reports of noncompliance with or breaches of the law of armed conflict shall report the facts promptly to the National Military Command Center in accordance with the applicable provisions of reference (g), (h), or (i), and, as appropriate, submit amplifying reports of investigation and ultimate disposition.

**9. Punitive Application.** Violations of the reporting requirements of paragraph 8 of this instruction are punishable in accordance with reference (j).

ROBERT J. MURRAY  
Acting Secretary of the Navy

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SECNAVINST 3300.1A

2 May 1980

July 10, 1979  
NUMBER 5100.77

GC, DoD

## Department of Defense Directive

SUBJECT: DoD Law of War Program

- References:
- (a) DoD Directive 5100.77, "DoD Program for the Implementation of the Law of War (Short Title: DoD Law of War Program)," November 5, 1974 (hereby canceled)
  - (b) DoD Instruction 5500.15, "Review of Legality of Weapons Under International Law," October 16, 1974
  - (c) DoD Directive 5100.69, "DoD Program for Prisoners of War and Other Detainees," December 27, 1972
  - (d) through (1), see enclosure 1

### A. REISSUANCE AND PURPOSE

This Directive reissues reference (a) and provides policy guidance and assignment responsibilities within the Department of Defense for a program to ensure compliance with the law of war.

### B. APPLICABILITY

The provisions of this Directive apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Defense Agencies, and the Unified and Specified Commands (hereafter referred to as "DoD Components").

### C. POLICY

It is the policy of the Department of Defense to ensure that:

1. The law of war and the obligations of the U.S. Government under that law are observed and enforced by the U.S. Armed Forces.
2. A program, designed to prevent violations of the law of war, is implemented by the U.S. Armed Forces.
3. Alleged violations of the law of war, whether committed by or against U.S. or enemy personnel, are promptly reported, thoroughly investigated, and, where appropriate, remedied by corrective action.

Enclosure (1)

4. Violations of the law of war alleged to have been committed by or against allied military or civilian personnel shall be reported through appropriate command channels for ultimate transmission to appropriate agencies of allied governments.

#### D. DEFINITION AND EXCLUSION

1. The law of war encompasses all international law with respect to the conduct of armed conflict, binding on the United States or its individual citizens, either in international treaties and agreements to which the United States is a party, or applicable as customary international law.

2. There is excluded from the scope of this Directive that part of the law of war relating to the acquisition and procurement of weapons and weapons systems for the Armed Forces of the United States, which is addressed in DoD Instruction 5500.15 (reference (b)), and the DoD Program for Prisoners of War and other Detainees, which is addressed in DoD Directive 5100.69 (reference (c)).

#### E. RESPONSIBILITIES

##### 1. General

a. The Armed Forces of the United States shall comply with the law of war in the conduct of military operations and related activities in armed conflict, however such conflicts are characterized.

b. The Armed Forces of the U.S. shall institute and implement programs to prevent violations of the law of war to include training and dissemination, as required, by the Geneva Conventions (GWS Art. 47 (reference (d)), GWS Sea Art. 48 (reference (e)), GPW Art. 127 (reference (f)), GC Art. 144 (reference (g)), Hague Convention IV (Art. I) (reference (h)), in accordance with doctrine set forth in Army Field Manual 27-10 (reference (i)), Naval Warfare Information Publication 10-2 (reference (j)), Air Force Pamphlet 110-32 (reference (k)), Air Force Pamphlet 110-31 (reference (l)), or other publications issued under subparagraph E.2.e.(2).

##### 2. Specific

a. The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) shall maintain overall coordination of and monitor the Military Departments' plans and policies for training and education in the law of war.

b. The Assistant Secretary of Defense (International Security Affairs) shall coordinate DoD positions on international negotiations of the law of war.

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c. The Assistant Secretary of Defense (Public Affairs) shall monitor the public affairs aspects of the DoD law of war program and provide public affairs policy guidance, as appropriate, to include coordination with the Department of State on matters of mutual public affairs concern.

d. The DoD General Counsel shall provide overall legal guidance within the Department of Defense pertaining to the DoD law of war program, to include review of policies developed in connection with the program and coordination of special legislative proposals and other legal matters with other Federal departments and agencies.

e. The Secretaries of the Military Departments shall develop internal policies and procedures consistent with this Directive in support of the DoD law of war program in order to:

(1) Provide publication, instructions, and training so that the principles and rules of the law of war will be known to members of their respective Departments, the extent of such knowledge to be commensurate with each individual's duties and responsibilities.

(2) Provide for the prompt reporting and investigation of alleged violations of the law of war committed by or against members of their respective Departments in consonance with directives issued pursuant to subparagraph E.2.h.(4) of this Directive.

(3) Provide for the appropriate disposition, under the Uniform Code of Military Justice, of cases involving alleged violations by persons subject to court-martial jurisdiction of their respective Departments.

(4) Provide for the central collection of reports and investigations of violations of the law of war alleged to have been committed by members of their respective Military Departments.

(5) Ensure that programs are implemented within their respective Departments to prevent violations of the law of war alleged to have been committed by members of their respective Military Departments.

f. The Secretary of the Army is designated as the Executive Agent for the Department of Defense for the administration of the DoD law of war program with respect to alleged violations of the law of war committed against U.S. personnel. In this capacity, the Secretary shall act for the Department of Defense in the development and coordination of plans and policies for the investigation and, subject to the provisions of DoD Directive 5000.19 (reference (m)), collection, recording, and reporting of information related to enemy violations of the law of war.

g. The Chairman of the Joint Chiefs of Staff shall:

(1) Provide guidance to the Commander of Unified and Specified Commands conforming with the policies and procedures contained in this Directive.

(2) Ensure that a primary point of contact in the Organization of the Joint Chiefs of Staff is designated to handle actions concerning activities under the provisions of this Directive.

(3) Issue and review appropriate plans, policies, and Directives, as necessary, in consonance with this Directive.

(4) Ensure that rules of engagement issued by Unified and Specified Commands are in consonance with the law of war.

h. Commanders of Unified and Specified Commands shall:

(1) Institute necessary programs within their respective commands to prevent violations of the law of war and ensure that they are subject to periodic review and evaluation, particularly in light of any violations reported.

(2) Implement Joint Chiefs of Staff guidance for the collection and investigation of reports of enemy violations of the law of war.

(3) Designate an authority within the command to supervise the administration of those aspects of this program dealing with alleged enemy violations.

(4) Issue appropriate plans and regulations to ensure that war crimes allegations, which apply to this Directive, are reported promptly to the appropriate authorities and investigated.

(5) Ensure that initial reports and reports of investigation of alleged war crimes committed by U.S. personnel are forwarded to the appropriate Military Departments.

(6) Ensure that rules of engagement issued by the command conform to the law of war.

i. The Director, Defense Intelligence Agency, shall provide appropriate information from the intelligence community to the Secretary of the Army and the Commanders of Unified and Specified Commands, pursuant to paragraphs E.2.f. and h., above, concerning violations of the law of war perpetrated against captured or detained U.S. nationals.

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12. Pillage or plunder of public or private property.
13. Wilful misuse of the distinctive emblem (red on a white background) of the red cross, red crescent, red lion and sun or of other protective emblems, signs or signals recognized under international law.
14. Feigning an intent to negotiate under a flag of truce or of surrender; feigning incapacitation by wounds or sickness; feigning civilian non-combatant status; feigning protected status by use of signs, emblems or uniforms of the United Nations or a neutral or other State not a party to the conflict or by wearing civilian clothing to conceal military identity during battle.
15. Firing upon a flag of truce.
16. Denial of quarter, unless bad faith is reasonably suspected.
17. Violations of surrender or armistice terms.
18. Using poisoned or otherwise forbidden arms or ammunition.
19. Poisoning wells, streams or other water sources.
20. Other analogous acts violating the accepted rules regulating the conduct of warfare.

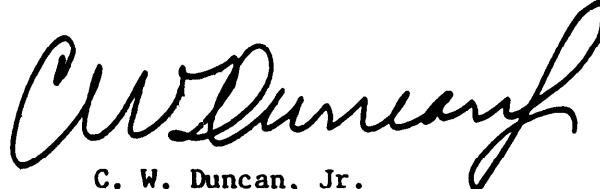
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F. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents and notification of designated representatives, in accordance with subsection E.2., above, and any revisions to the General Counsel, Department of Defense, and the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) within 150 days.



C. W. Duncan, Jr.  
Deputy Secretary of Defense

Enclosure - 1  
References

REFERENCES, continued

- (d) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, August 12, 1949
- (e) Geneva Convention for Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, August 12, 1949
- (f) Geneva Convention Relative to the Treatment of Prisoners of War, August 12, 1949
- (g) Geneva Convention Relative to the Protection of Civilian Persons in Time of War, August 12, 1949
- (h) Hague Convention No. IV Respecting the Laws and Customs of War on Land, October 18, 1907
- (i) Army Field Manual 27-10, The Law of Land Warfare, July 1956
- (j) Naval Warfare Information Publication 10-2, Law of Naval Warfare, September 1955
- (k) Air Force Regulation 110-32, Training and Reporting to Insure Compliance with the Law of Armed Conflict, August 1976
- (l) Air Force Pamphlet 110-31, International Law-The Conduct of Armed Conflict and Air Operations, November 1976
- (m) DoD Directive 5000.19, "Policies for the Management and Control of Information Requirements," March 12, 1976

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## EXAMPLES OF VIOLATIONS OF

THE LAW OF ARMED CONFLICT

SECNAVINST 3300.1A requires each person in the Department of the Navy who has knowledge of or receives a report of an apparent violation of the law of armed conflict to make that incident known to his or her immediate commander, commanding officer, or to a superior officer as soon as is practicable, and requires commanders and commanding officers receiving reports of noncompliance with or breaches of the law of armed conflict to report the facts promptly to the National Military Command Center. The 1949 Geneva Conventions for the Protection of War Victims and customary international law proscribe certain acts which are commonly accepted as violations of the law of armed conflict. (R)

The following are examples of those incidents which must be reported:

1. Offenses against the wounded, sick, survivors of sunken ships, prisoners of war, and civilian inhabitants of occupied or allied territories including interned and detained civilians: attacking without due cause; wilful killing; torture or inhuman treatment, including biological, medical or scientific experiments; physical mutilation; removal of tissue or organs for transplantation; any medical procedure not indicated by the health of the person and which is not consistent with generally accepted medical standards; wilfully causing great suffering or serious injury to body or health or seriously endangering the physical or mental health; taking as hostages.
2. Other offenses against prisoners of war (POW): compelling a POW to serve in the armed forces of the enemy; causing the performance of unhealthy, dangerous, or otherwise prohibited labor; infringement of religious rights; and deprivation of the right to a fair and regular trial.
3. Other offenses against survivors of sunken ships, the wounded or sick: when military interests do permit, failure to search out, collect, make provision for the safety of, or to care for survivors of sunken ships, or to care for members of armed forces in the field who are disabled by sickness or wounds or who have laid down their arms and surrendered.
4. Other offenses against civilian inhabitants of, including interned and detained civilians, refugees and stateless persons within, occupied or allied territories: unlawful deportation or transfer, unlawful confinement, compelling forced labor, compelling the civilian inhabitant to serve in the armed forces of the enemy or to participate in military operations, denial of religious rights, denaturalization, infringement of property rights, and denial of fair and regular trial.

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5. Attacks on individual civilians or the civilian population, or indiscriminate attacks affecting the civilian population or civilian property, knowing that the attacks will cause loss of life, injury to civilians or damage to civilian property that would be excessive or disproportionate in relation to the concrete and direct military advantage anticipated, and which cause death or serious injury to body or health.

6. Deliberate attacks upon medical transports including hospital ships, coastal rescue craft, and their lifeboats or small craft; medical vehicles; medical aircraft; medical establishments including hospitals; medical units; medical personnel or crews (including shipwrecked survivors); and persons parachuting from aircraft in distress during their descent.

7. Killing or otherwise imposing punishment, without a fair trial, upon spies and other persons suspected of hostile acts while such persons are in United States custody.

8. Maltreatment or mutilation of dead bodies.

9. Wilful or wanton destruction of cities, towns, or villages, or devastation not justified by military necessity; aerial or naval bombardment whose sole purpose is to attack and terrorize the civilian population, or to destroy protected areas, buildings or objects (such as buildings used for religious, charitable or medical purposes, historic monuments or works of art); attacking localities which are undefended, open to occupation, and without military significance; attacking demilitarized zones contrary to the terms establishing such zones.

10. Improper use of privileged buildings or localities for military purposes.

R) 11. Attacks on facilities--such as dams and dikes, which, if destroyed, would release forces dangerous to the civilian population--when not justified by military necessity.

12. Pillage or plunder of public or private property.

13. Wilful misuse of the distinctive emblem (red on a white background) of the red cross, red crescent, red lion and sun or of other protective emblems, signs or signals recognized under international law.

14. Feigning an intent to negotiate under a flag of truce or of surrender; feigning incapacitation by wounds or sickness; feigning civilian non-combatant status; feigning protected status by use of signs, emblems or uniforms of the United Nations or a neutral or other State not a party to the conflict or by wearing civilian clothing to conceal military identity during battle.

15. Firing upon a flag of truce.

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16. Denial of quarter, unless bad faith is reasonably suspected.
17. Violations of surrender or armistice terms.
18. Using poisoned or otherwise forbidden arms or ammunition.
19. Poisoning wells, streams or other water sources.
20. Other analogous acts violating the accepted rules regulating the conduct of warfare.

NOTE: The reporting requirement contained in this enclosure is exempt from reports control by OPNAVINST 5214.7.